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10 LOCAL UNION NO. 166, affiliated with the LABORERS
INTERNATIONAL UNION OF NORTH AMERICA
11

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 ALEX CORNS,

16 Plaintiff,

17 v.

18 LABORERS INTERNATIONAL UNION OF
19 NORTH AMERICA; NORTHERN
CALIFORNIA DISTRICT COUNCIL OF
20 LABORERS; and HOD CARRIERS LOCAL
21 UNION NO. 166, affiliated with the
LABORERS INTERNATIONAL UNION OF
22 NORTH AMERICA,

No. 09-cv-4403 YGR

**DEFENDANTS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL**

Judge: Hon. Yvonne Gonzalez Rogers

1 Pursuant to Civil Local Rules 7-11 and 79-5, Defendants Laborers International Union of
2 North America (“LIUNA”), the Northern California District Council of Laborers (“NCDCL”),
3 and Hod Carriers Local Union No. 166 (“Local 166”), hereby seek to file the following
4 documents under seal:

- 5 1. Lists of Local 166’s members in June 2008 and current active
6 members, including their last known contact information;
- 7 2. An accounting of the dues that would be owed to each member
8 of Local 166 under the East Bay contract; and
- 9 3. An accounting of the dues that would be owed to each member
10 of Local 166 under the West Bay contract.

11 Defendants seek to file each of the documents under seal as opposed to redacting portions of the
12 documents. The documents at issue are referenced as Exhibits 1, 2, and 3, respectively, to the
13 supporting declaration of counsel filed in support of this motion and are filed under seal.
14 Courtesy copies of the documents to be filed under seal will be provided to the Court as required
15 by Civil Local Rule 79-5.

16 Defendants were ordered to provide the documents in question to assist the Court in
17 determining the proper remedy for the violation of the LMRDA found by the Ninth Circuit. See
18 ECF 88 at 11. At the pre-hearing conference held on April 28, 2014, Defendants were prepared
19 to submit the documents to the Court for *in camera* review. Rather than accepting the documents,
20 the Court directed Defendants to file an Administrative Motion to Seal documents and indicated
21 that the Court is inclined to grant such a motion. See April 28, 2014 Civil Minutes. Plaintiff did
22 not object to filing the documents under seal at the pre-hearing conference.

23 Local 166 asserts the associational and privacy rights of its members to submit the
24 information without public filing and to withhold this information from Plaintiff. *NAACP v. State*
25 *of Alabama*, 357 U.S. 449, 459-462; see also *Britt v. Superior Court*, 20 Cal.3d 844, 854-856
26 (1978) (recognizing that private association affiliations “are presumptively immune from
27 inquisition...,” citing *Sweezy v. New Hampshire*, 354 U.S. 234, 265-266 (1957); *United Farm*
28 *Workers v. Superior Court*, 170 Cal.App.3d 391, 395 (1985) (affirming production of union
membership list to court for *in camera* review).

1 The calculations of the dues owed per-member under the East Bay and West Bay
2 contracts contain confidential financial information regarding each member. The calculations, in
3 table format, show the month in which the work was performed, the employer, the total hours
4 worked, the total dues collected, the dues rate, the dues differential, the total dues differential for
5 each employer in each work month, and a grand total of the amount that would be payable per
6 member if restitution is ordered. The calculations do not include interest. Such financial
7 information is not appropriate for disclosure to the general public. See, e.g., 5 U.S.C.
8 §§ 552(b)(4), (6) (FOIA exemption available to prevent disclosure of financial information
9 obtained from a person that is privileged or confidential); *Local 3, Int'l Bhd. of Elec. Workers,*
10 *AFL-CIO v. N.L.R.B.*, 845 F.2d 1177, 1181 (2d Cir. 1988) (lists containing information regarding
11 union membership and wages exempt from disclosure under § 552(b)(6)); Cal. Government Code
12 §§ 6254(c), (k) (exempting personnel information from disclosure under the Public Records Act);
13 *City of Carmel by the Sea v. Young* (1970) 2 Cal.3d 259, 268 (one's personal financial affairs "is
14 an aspect of the zone of privacy which is protected by the Fourth Amendment and which also
15 falls within that penumbra of constitutional rights into which the government may not intrude
16 absent a showing of compelling need...").

17 For the foregoing reasons, Defendants respectfully request they be permitted to file the
18 membership lists and per-member calculations under seal and that such documents be kept from
19 public inspection, including inspection by the attorneys and parties to the action.

20 Dated: May 7, 2014

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